# ENVIRONMENTAL RECLAMATION OF VICTORIO PEAK

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Office of the Staff Judge Advocate
White Sands Missile Range, NM
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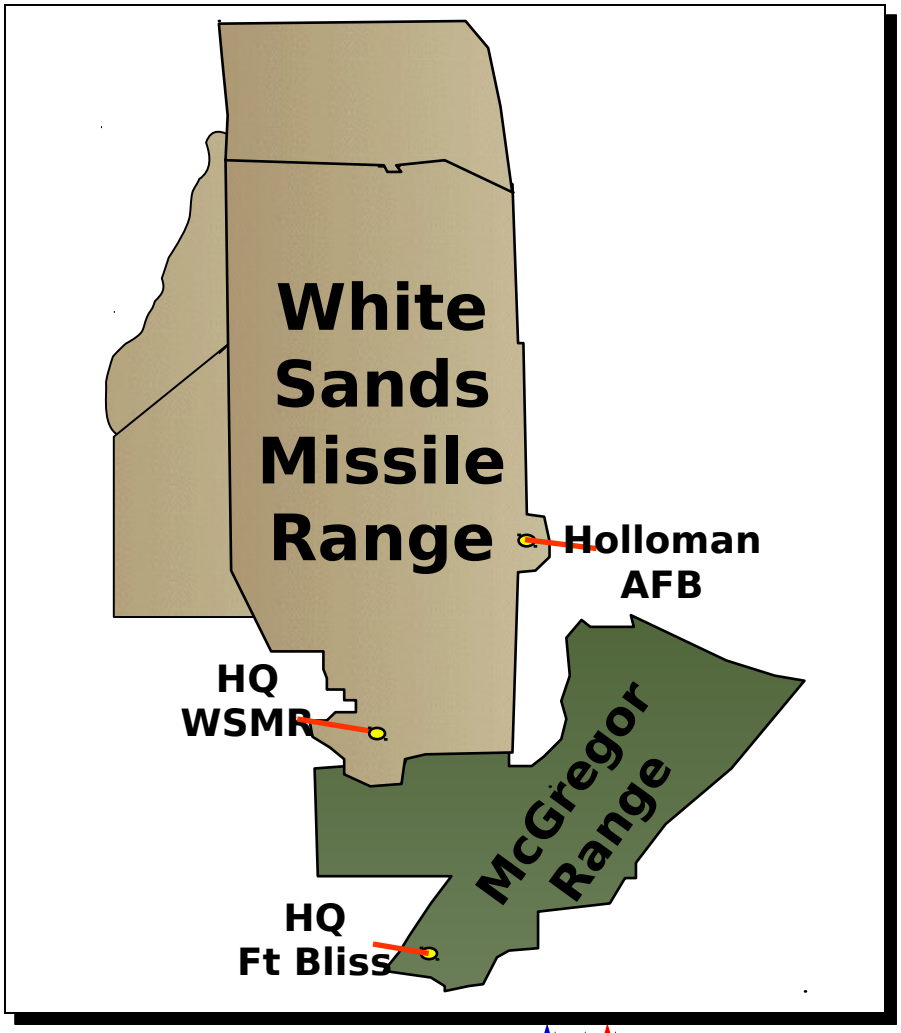
*America's Range*

# WHITE SANDS MISSILE RANGE




- Land Mass
  - 3,200 square miles
  - 2.5 million acres
  - Lease agreements add 1.5 million acres
  - Partnering with Fort Bliss adds 1 million acres
- Climate
  - 343 days with visibility greater than 6 miles
  - Rainfall - 11.9 inches
  - Temperature - average high 78 degrees, average low 46 degrees

# LEGEND OF VICTORIO PEAK

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- Treasure trove allegedly discovered in Victorio Peak in 1937
  - Trove includes gold bars, skeletons, jewels, Wells Fargo lock boxes
  - Trove discovered by “Doc” Noss
  - Noss solicits investors
  - 1949 - Noss shot and killed by investor who is acquitted of murder
- Gold Hunt Expeditions
  - 1937 to 1945 “Doc” Noss family searches
  - Gaddis Mining Company conducts 60 day search in 1963
  - Search Conducted by Expeditions Unlimited in 1977

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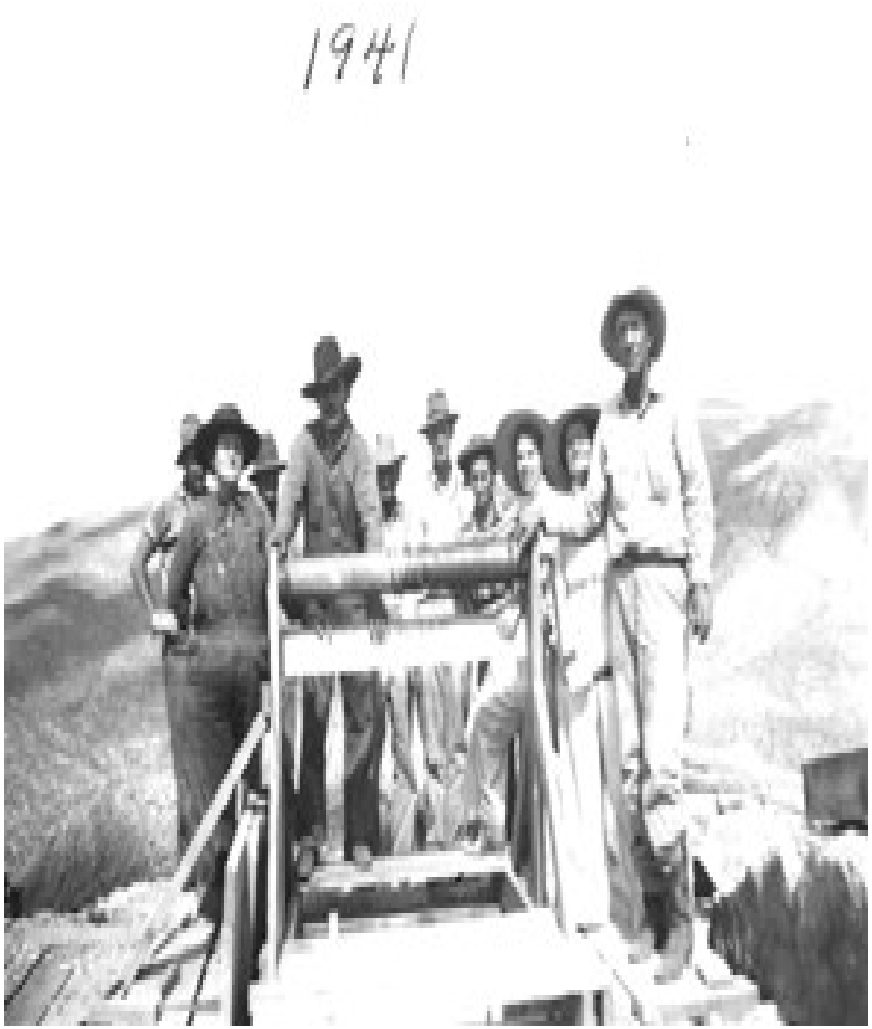

# OVA NOSS FAMILY PARTNERSHIP EXPLORATION

- Ova Noss Family Partnership (ONFP)
  - California bases limited liability partnership
  - General Partner is grandson of “Doc” Noss
  - Strong ties to Hollywood
- ONFP Access to Victorio Peak
  - FY 1990 Defense Authorization Act
  - 1991 Army enters into one-year revocable license agreemer
    - License requires reimbursement for security, environmer
    - License extended 4 years
  - 1996 ONFP materially breaches licensing agreement and asked to leave White Sands missile Range
  - 1997 ONFP files suit in Court of Federal Claims

# ENVIRONMENTAL DAMAGES

- Bore Holes
- Mine Shafts
- Roads
- Spoil Piles
- Fuel and POL Spills
- Abandoned Equipment
- Openings Hazardous to Animals and Humans
- Water Erosion
- Groundwater?

# ASSESSMENT OF DAMAGES

- Environmental Team
  - Hydrologist
  - Geologist
  - Biologist
  - Archeologist
  - Stewardship Ecologist (TNC)
  - Heavy Construction Engineer
  - Construction Cost Estimator
  - Road Engineer
  - Attorneys
  - Public Affairs Office
- Historical Records, Discovery, Interviews, Site Visit

# SITE VISIT

- Site Visit Pre-brief
  - Goal of site visit
  - Questions to be raised in court
  - Safety briefing
- Site Visit
  - Inspect and photograph all damages
  - GPS all damages
  - GPS all proposed remediations (i.e.) waterbars
  - Document “accepted” remediations best to worst
    - Land Manager
    - Construction Engineer
- Site Visit Out-brief

# REPORT PREPARATION

- Technical Approach to Reclamation
  - Describe damages
  - Discuss “accepted” methods of reclamation -- use experts
  - Compare best and worst methods
- Cost Estimate
  - Use a construction cost estimator
  - In-house
  - Contractor
- Prepare Map
  - Prepare to use in court
- Review by Experts With Eye Towards Litigation

# LAWS AND RESOURCES TO CONSIDER

- National Environmental Policy Act (NEPA)
- Resource Conservation and Recovery Act (RCRA)
- Federal Tort Claims Act (FTCA)
- National Historic Preservation Act
- State Permits and Regulators
- “Environmental Remediation Cost Date - Unit Price,” 5th Edition, R.S. Means Company
- “Environmental Remediation Cost Date - Assemblies,” 5th Edition, R.S. Means Company
- Discovery

# CONCLUSION

- Consider Site Visit by Judge and/or Regulators
- Brainstorm with Scientists and Engineers
- Web Resources